

Francesco Benavides, CSBN 258924  
Law Offices of Francesco Benavides  
1990 N. California Blvd. 8<sup>th</sup> Floor  
Walnut Creek, CA 94596  
Tel: (925) 222-7071  
Email: [francesco@benavidesdisabilitylaw.com](mailto:francesco@benavidesdisabilitylaw.com)

Attorney for Plaintiff  
LANH HO

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
EUREKA DIVISION

LANH HO,

Plaintiff,

V.

MARTIN J. O'MALLEY,  
Commissioner of Social Security,

## Defendant.

Case No. 1:23-cv-03727-RMI

STIPULATION FOR THE AWARD AND  
PAYMENT OF ATTORNEY FEES AND  
EXPENSES PURSUANT TO THE  
EQUAL ACCESS TO JUSTICE ACT;  
[PROPOSED] ORDER

IT IS HEREBY STIPULATED by and between the parties through their undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded attorney fees and expenses in the amount of \$7,984.45, under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), and no costs under 28 U.S.C. § 1920. This amount represents compensation for all legal services rendered on behalf of Plaintiff by counsel in connection with this civil action, in accordance with 28 U.S.C. §§ 2412(d), 1920.

After the Court issues an order for EAJA fees to Plaintiff, the government will consider the matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability

1 to honor the assignment will depend on whether the fees are subject to any offset  
2 allowed under the United States Department of the Treasury's Offset Program. After  
3 the order for EAJA fees is entered, the government will determine whether they are  
4 subject to any offset.

5 Fees shall be made payable to Plaintiff, but if the Department of the Treasury  
6 determines that Plaintiff does not owe a federal debt, then the government shall cause  
7 the payment of fees, expenses and costs to be made directly to Plaintiff's counsel,  
8 Francesco Benavides, pursuant to the assignment executed by Plaintiff.

9 Payment of costs may be made either by electronic fund transfer (ETF) or by  
10 check.

11 This stipulation constitutes a compromise settlement of Plaintiff's request for  
12 EAJA attorney fees and does not constitute an admission of liability on the part of  
13 Defendant under the EAJA or otherwise. Payment of the agreed amount shall  
14 constitute a complete release from, and bar to, any and all claims that Plaintiff and/or  
15 Francesco Benavides, including the Law Offices of Francesco Benavides, may have  
16 relating to EAJA attorney fees in connection with this action.

17 This award is without prejudice to the rights of Francesco Benavides to seek  
18 Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings  
19 clause provisions of the EAJA.

21 Respectfully submitted,

23 Dated: October 4, 2024

22 Law Offices of Francesco Benavides

25 By: /s/ Francesco Benavides  
26 FRANCESCO P. BENAVIDES  
27 Attorney for Plaintiff

1  
2  
3 Dated: October 4, 2024

4 ISMAIL J. RAMSEY  
5 United States Attorney  
6 MATHEW W. PILE  
7 Associate General Counsel  
8 Social Security Administration

9  
10 By: /s/ Katherine Watson\*  
11 KATHERINE WATSON  
12 Special Assistant U.S. Attorney  
13 Attorneys for Defendant  
14 (\*Francesco Benavides attests that Emma  
15 O'Rourke-Friel, on behalf of Katherine Watson,  
16 concurred with the filing of this document and  
17 permission to use her electronic signature was  
18 obtained via email on October 4, 2024).  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1                   **[PROPOSED] ORDER**

2       Based upon the parties' Stipulation for the Award and Payment of Equal Access  
3       to Justice Act Fees and Expenses, **IT IS ORDERED** that fees and expenses in the  
4       amount of \$7,984.45 as authorized by 28 U.S.C. § 2412, and no costs under 28 U.S.C.  
5       § 1920, be awarded subject to the terms of the Stipulation.

6  
7  
8       DATE: October 24, 2024

9  
10        
11      HON. ROBERT M. ILLMAN  
12      UNITED STATES MAGISTRATE JUDGE

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28